

satisfaction of the petitioner's debts. A petition was filed for the same purpose, by John Glenn, as permanent trustee of another creditor, of said Elizabeth, on a note given during her coverture, by her and her son Thomas, with whom she had traded, under the firm and style of Thomas Conn & Co., said note was given in April, 1839, and the firm afterwards failed, and Thomas Conn obtained his discharge under the insolvent laws. The statute of limitations was pleaded against all these claims, but was afterwards withdrawn against all but the latter, which was marked No. 4, the three first being numbered, respectively, 1, 2 and 3. In the subsequent account of the Auditor, the proceeds of sale were distributed amongst the children of William Conn, including the posthumous child Silas W. Conn, and the portion which in the previous accounts was assigned to them as heirs at law, of their mother, was therein applied to the part satisfaction of the claims filed. Exceptions to this account were filed, and submitted to the Chancellor on written arguments, the principal points raised being, whether the posthumous child of William Conn, was entitled to a share of his father's estate; and, whether the separate estate of Elizabeth Hall, could be applied to the satisfaction of the claims filed :]

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THE CHANCELLOR :

It is true, that a court of equity will use all possible ingenuity in construing testamentary expressions in such manner as to include all children in existence at the testator's death; and, that a child in *ventre sa mere* is considered as living at that time.

And, it is also true, that when the testator himself stands in the relation of parent to the legatees, in which case it is his duty to provide for his children at his death, a court of equity will lay hold of any general expressions which will include all the children, notwithstanding, it may be apparent from the context, that only children in existence when the will was made were within the contemplation of the testator. Yet, even as between parent and child, when it is evident that he really forgot that other